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S.3

Introduced by Senators Sears, Ayer, and White

Referred to Committee on Judiciary

Date: January 10, 2017

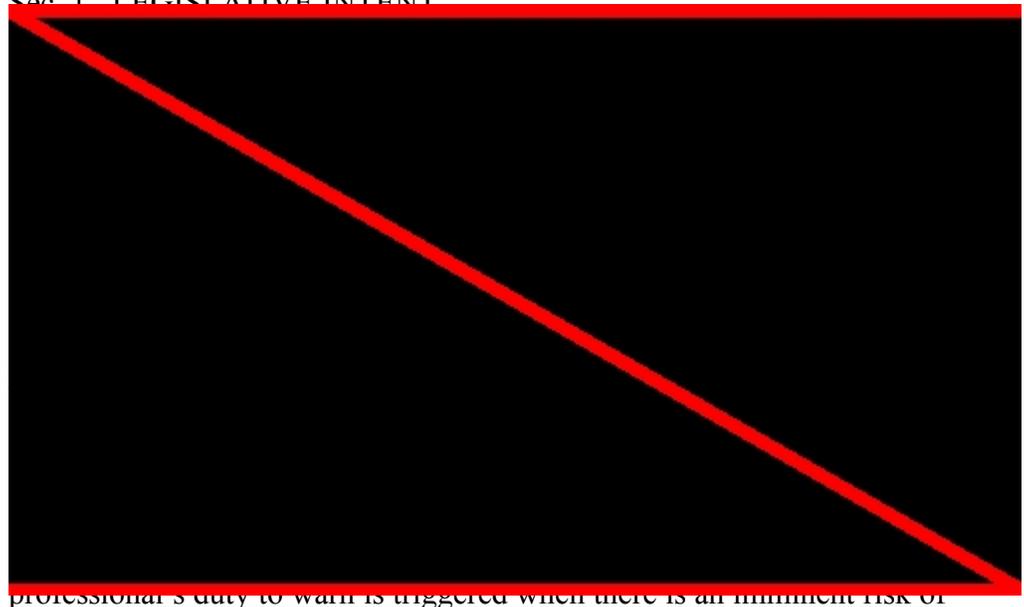
Subject: Human services; mental health; duty to warn

Statement of purpose of bill as introduced: This bill proposes to impose a duty on mental health professionals to take reasonable precautions when a patient poses an imminent risk of serious danger to a reasonably identifiable victim.

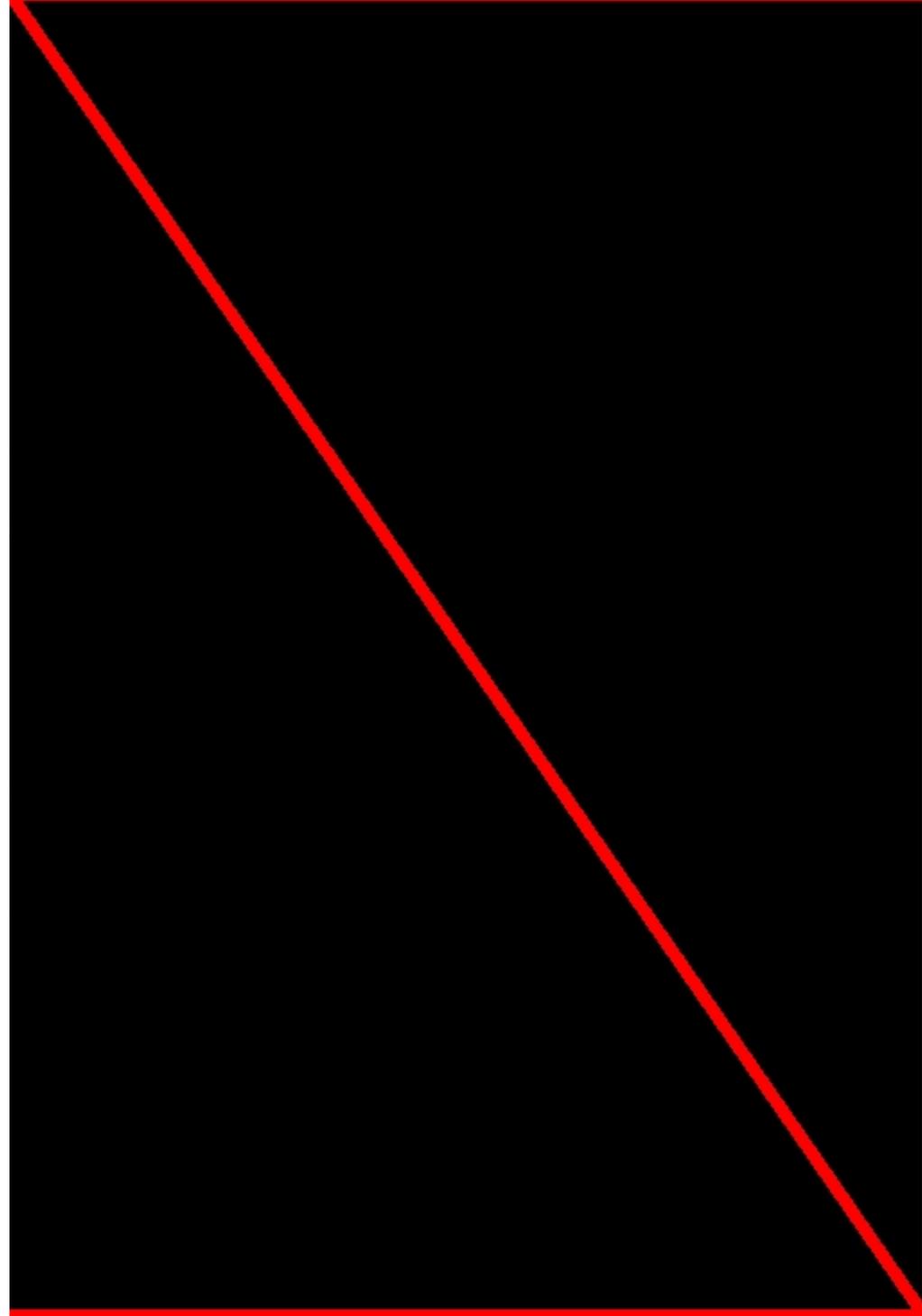
An act relating to mental health professionals' duty to warn

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. LEGISLATIVE INTENT



1 serious danger to an identifiable victim, but does not require a mental health



21 subsection (a) of this section.

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(d) Except as directed in subsection (a) of this section, a mental health professional shall take such steps as are necessary to protect the safety of the client or patient in the event of a crisis. This act shall take effect on passage.

Sec. 1. LEGISLATIVE INTENT

It is the intent of the General Assembly in this act to respond to the Vermont Supreme Court's decision in *Kuligoski v. Brattleboro Retreat and Northeast Kingdom Human Services*, 2016 VT 54A, by clarifying a mental health professional's duty to disclose information concerning a client or patient in certain circumstances.

Sec. 2. 18 V.S.A. § 7115 is added to read:

§ 7115. MENTAL HEALTH PROFESSIONAL; DISCLOSURE OF INFORMATION

(a)(1) A mental health professional has a duty to exercise reasonable care to protect an identifiable victim or property from danger when the mental health professional knows or, based upon the standards of his or her respective mental health profession, should know that his or her client or patient poses:

(A) an imminent risk of serious danger to the identifiable victim; or

(B) an imminent risk to property to the extent that the risk represents a lethal threat to a person in the vicinity of the property.

(2) In discharging in good faith the duty described in subdivision (1) of this subsection:

(A) no cause of action against a mental health professional shall arise concerning client or patient privacy or confidentiality for disclosing information to third parties; and

(B) a mental health professional shall not be subject to criminal or civil liability.

(b) A mental health professional shall not be required to violate the standards of his or her respective mental health profession in disclosing information pursuant to this section.

(c) As used in this section:

(1) "Identifiable victim" means a potential victim or victims who are capable of being identified.

(2) "Mental health professional" means the same as in section 7101 of this title.

Sec. 3. 18 V.S.A. § 8011 is added to read:

§ 8011. DISCHARGE PLANS

(a) To the extent permitted under State and federal patient privacy laws, a mental health professional discharging a client or patient from a psychiatric inpatient hospital or residential setting shall include in the discharge plan all necessary information on the client or patient's condition to enable the person or persons named in the discharge plan to carry out his or her discharge functions.

(b) No cause of action against a mental health professional shall arise concerning client or patient privacy or confidentiality for disclosing information to third parties pursuant to subsection (a) of this section.

Sec. 4. EFFECTIVE DATE

This act shall take effect on passage.